MONTANA LEGISLATIVE HISTORY

Chapter 300 19 99

Bill H _____ S 399 Original bill & history ✓ C

H. Committee on Bus & Labor		S. Committee on Public Health	
Hearing Date(s) 3/15	✓ C	Hearing Date(s) _____	___ C
_____	___ C	2/17	✓ C
_____	___ C	_____	___ C
_____	___ C	_____	___ C
Date Out 3/22, 3/23	C	2/19	✓

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendent information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

2/17	3rd Reading Passed	46	1
	Transmitted to House		
2/18	Referred to Transportation		
3/12	Hearing		
3/22	Committee Executive Action--Bill Concurred	10	7
3/22	Committee Report--Bill Concurred		
3/29	2nd Reading Concurred	89	7
3/30	3rd Reading Concurred	94	4
	Returned to Senate		
3/30	Sent to Enrolling		
3/31	Returned from Enrolling		
3/31	Signed by President		
4/07	Signed by Speaker		
4/07	Transmitted to Governor		
4/12	Signed by Governor		
4/14	Chapter Number Assigned		
	Chapter Number 298		
	Effective Date: 10/01/1999 - All Sections		

SB 398 Introduced by Bohlinger *LC1573 Drafter: Fox*

Protect the Right of a Mother to Nurse Her Child in Public;...

2/06	Introduced and 1st Reading		
2/06	Referred to Public Health, Welfare and Safety		
2/15	Hearing		
2/18	Committee Executive Action--Bill Passed	9	0
2/18	Committee Report--Bill Passed		
2/20	2nd Reading Passed	48	0
2/22	3rd Reading Passed	49	0
	Transmitted to House		
3/02	Referred to Human Services		
3/12	Hearing		
3/17	Committee Executive Action--Bill Concurred	13	2
3/17	Committee Report--Bill Concurred		
3/29	2nd Reading Concurred	77	21
3/30	3rd Reading Concurred	76	23
	Returned to Senate		
3/30	Sent to Enrolling		
3/31	Returned from Enrolling		
3/31	Signed by President		
4/07	Signed by Speaker		
4/07	Transmitted to Governor		
4/12	Signed by Governor		
4/14	Chapter Number Assigned		
	Chapter Number 299		
	Effective Date: 10/01/1999 - All Sections		

SB 399 Introduced by Jabs *LC1696 Drafter: Fox*

Provide a Cap on the Amount a Health Care Provider May Charge for Copying Health Care Information;...

2/06	Introduced and 1st Reading		

2/06	Referred to Public Health, Welfare and Safety		
2/17	Hearing		
2/20	Committee Executive Action--Bill Passed as Amended	7	4
2/20	Committee Report--Bill Passed as Amended		
2/23	2nd Reading Passed	48	0
2/24	3rd Reading Passed	47	2
	Transmitted to House		
3/02	Referred to Business and Labor		
3/15	Hearing		
3/22	Committee Executive Action--Bill Concurred	13	5
3/23	Committee Report--Bill Concurred		
3/29	2nd Reading Concurred	82	17
3/30	3rd Reading Concurred	84	15
	Returned to Senate		
3/30	Sent to Enrolling		
3/31	Returned from Enrolling		
3/31	Signed by President		
4/07	Signed by Speaker		
4/07	Transmitted to Governor		
4/12	Signed by Governor		
4/14	Chapter Number Assigned		
	Chapter Number 300		
	Effective Date: 10/01/1999 - All Sections		

SB 400 Introduced by R. Holden, et al. *LC1376 Drafter: Niss*

Adopt Mountain Daylight Time and Not Mountain Standard Time as the Only Time to Be Used in Montana

2/06	Introduced and 1st Reading		
2/06	Referred to State Administration		
2/11	Hearing		
2/12	Tabled in Committee		
2/16	Committee Executive Action--Bill Passed	4	1
2/16	Committee Report--Bill Passed		
2/20	2nd Reading Pass Motion Failed	16	32
2/20	2nd Reading Indefinitely Postponed	30	18

SB 401 Introduced by R. Holden, et al. *LC1533 Drafter: Kurtz*

Revise the Definition of "Agricultural Use" for Gasoline and Special Fuel Tax Refund Purposes;...

1/07	Fiscal Note Needed
2/06	Introduced and 1st Reading
2/06	Referred to Agriculture, Livestock and Irrigation
2/06	Fiscal Note Requested
2/11	Fiscal Note Received
2/11	Fiscal Note Signed
2/12	Fiscal Note Printed
2/12	Hearing
2/15	Revised Fiscal Note Requested
2/15	Revised Fiscal Note Received
2/15	Revised Fiscal Note Printed
2/15	Revised Fiscal Note Signed
2/18	Revised Fiscal Note Requested

Senate BILL NO. 399

INTRODUCED BY _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A CAP ON THE AMOUNT A HEALTH CARE PROVIDER MAY CHARGE FOR COPYING HEALTH CARE INFORMATION; AND AMENDING SECTIONS 50-16-504, 50-16-526, 50-16-536, 50-16-541, AND 50-16-545, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Reasonable fees allowed.** A reasonable fee for providing health care information may not exceed 50 cents for each page for a paper copy or photocopy. A reasonable fee may include an administrative fee that may not exceed $15 for searching and handling recorded health care information.

Section 2. Section 50-16-504, MCA, is amended to read:

"**50-16-504. Definitions.** As used in this part, unless the context indicates otherwise, the following definitions apply:

(1) "Audit" means an assessment, evaluation, determination, or investigation of a health care provider by a person not employed by or affiliated with the provider, to determine compliance with:

(a) statutory, regulatory, fiscal, medical, or scientific standards;

(b) a private or public program of payments to a health care provider; or

(c) requirements for licensing, accreditation, or certification.

(2) "Directory information" means information disclosing the presence and the general health condition of a patient who is an inpatient in a health care facility or who is receiving emergency health care in a health care facility.

(3) "General health condition" means the patient's health status described in terms of critical, poor, fair, good, excellent, or terms denoting similar conditions.

(4) "Health care" means any care, service, or procedure provided by a health care provider, including medical or psychological diagnosis, treatment, evaluation, advice, or other services that affect the structure or any function of the human body.

(5) "Health care facility" means a hospital, clinic, nursing home, laboratory, office, or similar place where a health care provider provides health care to patients.

(6) "Health care information" means any information, whether oral or recorded in any form or medium, that identifies or can readily be associated with the identity of a patient and relates to the patient's health care. The term includes any record of disclosures of health care information.

(7) "Health care provider" means a person who is licensed, certified, or otherwise authorized by the laws of this state to provide health care in the ordinary course of business or practice of a profession. The term does not include a person who provides health care solely through the sale or dispensing of drugs or medical devices.

(8) "Institutional review board" means a board, committee, or other group formally designated by an institution or authorized under federal or state law to review, approve the initiation of, or conduct periodic review of research programs to assure the protection of the rights and welfare of human research subjects.

(9) "Maintain", as related to health care information, means to hold, possess, preserve, retain, store, or control that information.

(10) "Patient" means an individual who receives or has received health care. The term includes a deceased individual who has received health care.

(11) "Peer review" means an evaluation of health care services by a committee of a state or local professional organization of health care providers or a committee of medical staff of a licensed health care facility. The committee must be:

(a) authorized by law to evaluate health care services; and

(b) governed by written bylaws approved by the governing board of the health care facility or an organization of health care providers.

(12) "Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or other legal or commercial entity.

(13) "Reasonable fee" means the charge, as provided for in [section 1], for duplicating, searching for, or handling recorded health care information."

Section 3. Section 50-16-526, MCA, is amended to read:

"**50-16-526. Patient authorization to health care provider for disclosure.** (1) A patient may authorize a health care provider to disclose the patient's health care information. A health care provider shall honor an authorization and, if requested, provide a copy of the recorded health care information unless the health care provider denies the patient access to health care information under 50-16-542.

(2) A health care provider may charge a reasonable fee, not to exceed ~~his actual cost for providing the health care information~~ the fee provided for in [section 1], and is not required to honor an authorization until the fee is paid.

(3) To be valid, a disclosure authorization to a health care provider must:

(a) be in writing, dated, and signed by the patient;

(b) identify the nature of the information to be disclosed; and

(c) identify the person to whom the information is to be disclosed.

(4) Except as provided by this part, the signing of an authorization by a patient is not a waiver of any rights a patient has under other statutes, the Montana Rules of Evidence, or common law."

Section 4. Section 50-16-536, MCA, is amended to read:

"**50-16-536. Method of compulsory process.** (1) Unless the court for good cause shown determines that the notification should be waived or modified, if health care information is sought under 50-16-535(1)(b), (1)(d), or (1)(e) or in a civil proceeding or investigation under 50-16-535(1)(i), the person seeking discovery or compulsory process shall mail a notice by first-class mail to the patient or the patient's attorney of record of the compulsory process or discovery request at least 10 days before presenting the certificate required under subsection (2) to the health care provider.

(2) Service of compulsory process or discovery requests upon a health care provider must be accompanied by a written certification, signed by the person seeking to obtain health care information or ~~his~~ by the person's authorized representative, identifying at least one subsection of 50-16-535 under which compulsory process or discovery is being sought. The certification must also state, in the case of information sought under 50-16-535(1)(b), (1)(d), or (1)(e) or in a civil proceeding under 50-16-535(1)(i), that the requirements of subsection (1) for notice have been met. A person may sign the certification only if the person reasonably believes that the subsection of 50-16-535 identified in the certification provides an appropriate basis for the use of discovery or compulsory process. Unless otherwise ordered by the court, the health care provider shall maintain a copy of the process and the written certification as a

permanent part of the patient's health care information.

(3) In response to service of compulsory process or discovery requests, where authorized by law, a health care provider may deny access to the requested health care information. Additionally, a health care provider may deny access to the requested health care information under 50-16-542(1). If access to requested health care information is denied by the health care provider under 50-16-542(1), the health care provider shall submit to the court by affidavit or other reasonable means an explanation of why the health care provider believes the information should be protected from disclosure.

(4) ~~Where~~ When access to health care information is denied under 50-16-542(1), the court may order disclosure of health care information, with or without restrictions as to its use, as the court considers necessary. In deciding whether to order disclosure, the court shall consider the explanation submitted by the health care provider, the reasons for denying access to health care information set forth in 50-16-542(1), and any arguments presented by interested parties.

(5) A health care provider required to disclose health care information pursuant to compulsory process may charge a reasonable fee, not to exceed the ~~health care provider's actual cost for providing the information~~ fee provided for in [section 1], and may deny examination or copying of the information until the fee is paid.

(6) Production of health care information under 50-16-535 and this section does not in itself constitute a waiver of any privilege, objection, or defense existing under other law or rule of evidence or procedure."

Section 5. Section 50-16-541, MCA, is amended to read:

"**50-16-541. Requirements and procedures for patient's examination and copying.** (1) Upon receipt of a written request from a patient to examine or copy all or part of ~~his~~ the patient's recorded health care information, a health care provider, as promptly as required under the circumstances but no later than 10 days after receiving the request, shall:

(a) make the information available to the patient for examination during regular business hours or provide a copy, if requested, to the patient;

(b) inform the patient if the information does not exist or cannot be found;

(c) if the health care provider does not maintain a record of the information, inform the patient and provide the name and address, if known, of the health care provider who maintains the record;

(d) if the information is in use or unusual circumstances have delayed handling the request, inform the patient and specify in writing the reasons for the delay and the earliest date, not later than 21 days after receiving the request, when the information will be available for examination or copying or when the request will be otherwise disposed of; or

(e) deny the request in whole or in part under 50-16-542 and inform the patient.

(2) Upon request, the health care provider shall provide an explanation of any code or abbreviation used in the health care information. If a record of the particular health care information requested is not maintained by the health care provider in the requested form, ~~he~~ the health care provider is not required to create a new record or reformulate an existing record to make the information available in the requested form. The health care provider may charge a reasonable fee, not to exceed the ~~health care provider's actual cost~~ fee provided for in [section 1], for providing the health care information and is not required to permit examination or copying until the fee is paid."

Section 6. Section 50-16-545, MCA, is amended to read:

"**50-16-545. Dissemination of corrected or amended information or statement of disagreement.** (1) A health care provider, upon request of a patient, shall take reasonable steps to provide copies of corrected or amended information or of a statement of disagreement to all persons designated by the patient and identified in the health care information as having examined or received copies of the information sought to be corrected or amended.

(2) A health care provider may charge the patient a reasonable fee, not exceeding the ~~provider's actual cost~~ fee provided for in [section 1], for distributing corrected or amended information or the statement of disagreement, unless the provider's error necessitated the correction or amendment."

NEW SECTION. **Section 7. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 50, chapter 16, part 5, and the provisions of Title 50, chapter 16, part 5, apply to [section 1].

- END -

MINUTES

MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY

Call to Order: By **CHAIRMAN AL BISHOP**, on February 17, 1999 at 3:10 P.M., in Room 410 Capitol.

ROLL CALL

Members Present:

Sen. Al Bishop, Chairman (R)
Sen. Fred Thomas, Vice Chairman (R)
Sen. Sue Bartlett (D)
Sen. Dale Berry (R)
Sen. John C. Bohlinger (R)
Sen. Chris Christiaens (D)
Sen. Bob DePratu (R)
Sen. Dorothy Eck (D)
Sen. Eve Franklin (D)
Sen. Duane Grimes (R)
Sen. Don Hargrove (R)

Members Excused: None.

Members Absent: None.

Staff Present: Susan Fox, Legislative Branch
Martha McGee, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 469, SB 399, SB 433, 2/11/1999
Executive Action: SB 398, SB 323,SB 469, SB 388, SB 353, SB 433

HEARING ON SB 469

Sponsor: SEN. MIGNON WATERMAN, SD 26, Helena

stated they would have to identify the specific client whose barrier was transportation, and put in the request.

SEN. BISHOP asked if the Department would ever end up with the repossessed vehicle. **Hank Hudson** said he envisioned the cars would remain with the local entity, to be used again for this purpose.

SEN. DEPRATU asked if, when the folks made the payments, a mechanism would be in place which would establish credit by reporting to the credit bureau they were making payments. **Hank Hudson** said one of the goals of the program was to help them establish credit.

Closing by Sponsor:

SEN. MIGNON WATERMAN said the bill was the result of three Departments working together and the automobile dealers supported it, as well.

{Tape : 1; Side : A; Approx. Time Counter : 16}

HEARING ON SB 399

Sponsor: **SEN. REINY JABS, SD 3, Hardin**

Proponents: **David Westlake, Montana Health Information Management Association**
Barb Slunaker, St. Peter's Hospital
Judy Jackson, Shodair Hospital
Steve Browning, MHA...An Association of Health Care Providers
Christiana Schweitzer, Montana Trial Lawyers' Assn.

Opponents: **Alan Blakley, Attorney from Missoula**
Geoffrey Angel, Attorney & Private Citizen

Opening Statement by Sponsor:

SEN. REINY JABS, SD 3, Hardin, said **SB 399** provided a cap on the amount a health care provider could charge for copying health care information. He explained record departments of hospitals and health care facilities were often asked for copies of records of individuals served by a health care facility. Present statute said they could charge a reasonable fee, not to exceed the actual

cost, for providing the health care information. "Actual cost" was too vague, because it was not clear whether it was figured on time, materials, depreciation on the copy machines, etc. The reason for the bill was a lawsuit, filed in Federal court, against the Community Medical Center in Missoula, because the actual cost was not billed. He reported the lawsuit was still pending, and they were considering a class action suit. He said he had checked other states, and Montana was the only state which had "actual costs". Some had a reasonable fee, others had no fee at all and most had a set fee, which ranged from $5.00 to $32.50. He told the Committee the bill stated 50 cents per page, copying fee, and the reasonable fee was not to exceed $15.00 for searching and handling.

Proponents' Testimony:

David Westlake, Montana Health Information Management Association (MHIMA), used **EXHIBIT(1)** and **EXHIBIT(2)** for his testimony.

Barb Slunaker, St. Peter's Hospital, said they supported the bill.

Judy Jackson, Shodair Hospital, said they also supported **SB 399**.

Steve Browning, MHA...An Association of Health Care Providers, said they supported the bill.

Christiana Schweitzer, Montana Trial Lawyers' Association (MTLA), said they stood in support of **SB 399**, explaining it was a wise decision to include language which would reasonably cap the costs. In the past, the charges for copying records had been unconscionable; however, they hoped "reasonable fees" would be equitably be applied to patients, insurers and attorneys. She wanted to point out, even with this language, it would be possible to charge $15.50 for just one copy.

{Tape : 1; Side : A; Approx. Time Counter : 20.7}

Opponents' Testimony:

Alan F. Blakley, Attorney, Missoula, said he was the attorney in the above-mentioned lawsuit, and distributed copies of **EXHIBIT(3)**, from which he drew parts of his testimony. He explained the lawsuit was a result of numerous consumer complaints, because the law, as it now stood, was a reasonable law. He used **EXHIBIT(4)** as a summary for his testimony.

{Tape : 1; Side : B; Approx. Time Counter : 0}

Geoffrey Angel, Attorney & Private Citizen, said it did not seem the health care providers should be in the business of selling records, because they were not defraying the costs, as was the intent of the original legislation. However, it had become evident the medical providers charged in excess of that, i.e., it had become a "for-profit" business. He said, even though he had been in practice for a short time, all his clients were affected by this because they could not afford to pay for them and he, as an attorney, could not afford to buy them. The result was if an injury could not be established through medical records, there would be no payment. He said, as an example, he wrote to an association of doctors and received two packages of papers. One was six pages, at a cost of $35.00, and the other was eight pages, at $35.00. He said Livingston Memorial charged $1.00 per page, and in one instance, he got 145 pages at a cost of $120.00. He said allowing the medical providers to sell these records was a big problem on the personal level, because most of the clients could not pay for them. Because of this, they were not likely to pursue torte damages, assault or medical coverage which should be provided by an insurance company.

He said the first thing people asked when they came to see him, was how much it was going to cost. If medical records were involved, the cost was a serious problem. He opposed the bill because he thought it unjust to pay the profit gained by the records providers.

{Tape : 1; Side : B; Approx. Time Counter : 5.2}

Questions from Committee Members and Responses:

SEN. DON HARGROVE asked about the suggestion the patients already paid for their records when they bought the medical service. **David Westlake** said the patient could have a free copy; however, the issue was, even in the case of going to court, the original record would go to court. The request for multiple copies of major records was where the issue of cost lay. He said patients were allowed to come to a facility to review the records with a doctor; however, the request for an after-the-fact process (many times, years later) took additional time. That also meant additional costs.

SEN. B.F. "CHRIS" CHRISTIAENS asked if he understood correctly every patient had a right to a free copy. **Mr. Westlake** clarified his earlier statement by saying every patient had a right to review his or her record. Most facilities, in the continuum of care, furnished the free records to the other area of care. He commented once the records left their hands, they could not certify their accuracy; therefore, they preferred to make a copy

to send directly to the doctor, rather than through the patient to the doctor.

SEN. CHRISTIAENS maintained his question had not been answered. **Mr. Westlake** answered he withdrew that wording, and stated they were authorized to review.

SEN. CHRISTIAENS still needed further clarification, and said he understood he could review his record, but he may be charged for a copy. **David Westlake** said that could be true, because many times it was determined by the reason for the copy.

SEN. CHRISTIAENS asked what the normal fee would be, if he requested a copy of his medical records. **Mr. Westlake** said it would be based on what the facility figured its reasonable costs. This bill would standardize the costs and put a cap on the costs.

SEN. CHRISTIAENS asked if there was a charge for records which were transferred to a physician or other health care facility. **Mr. Westlake** said he did not know of any facilities which charged for records for continuation of care.

SEN. CHRISTIAENS asked the cost of filing a claim in case of multiple insurance carriers. **David Westlake** said sometimes insurance companies made agreements with health care facilities for a blanket amount; however, they asked only for specific pages.

SEN. DOROTHY ECK asked if a hospital would rely on a private company to give a patient his or her records. **Mr. Westlake** said in many cases, the companies were in the facility, i.e., they owned the copy machines, provided the clerical staff, etc. The original records did not leave the facility.

{Tape : 1; Side : B; Approx. Time Counter : 12.6}

SEN. BOB DEPRATU asked if there was a standard as to how long hard copies of the medical records were kept. **David Westlake** said the length of time for keeping an original record was determined by the amount of storage space and possible use of that record before it went to an alternative form. Some kept the originals two or three years, while others might keep them indefinitely.

SEN. DEPRATU wondered if the originals were destroyed in two years, automatically microfiched or saved in some other way. **Mr. Westlake** said a core record, at least, would be maintained indefinitely. The law mandated there were certain time frames

during which a record had to be kept, before it could be totally destroyed.

SEN. DEPRATU asked if he would consider it unreasonable, if the basic fee and per-page fees were reduced from what the bill called for. **Mr. Westlake** said from his personal experience in 1994 and quality, legibility issues of copying medical records, he would probably not consider it reasonable.

SEN. JOHN BOHLINGER asked for further understanding of the measurement of actual costs. **David Westlake** went back to the 1994-1995 studies, and said the costs were based on the distance between the offices where the records were filed, how far up they were, how many had to be pulled, legal requests, etc. They did random studies and compiled the data.

SEN. BOHLINGER said he did not hear numbers. He asked how much it would cost to copy a six-page document. **David Westlake** said he did not have the numbers in front of him, and he was not willing to "just pull numbers out of his head." He suggested if the cost study was done today, it would reflect an increase; in fact, if the Committee wanted a study done, it would be possible to do so.

SEN. DALE BERRY asked if it would be possible to project the margin of profit, using the numbers in the bill. **Mr. Westlake** said there would not be a high margin of profit.

{Tape : 1; Side : B; Approx. Time Counter : 22}

SEN. SUE BARTLETT asked if there was a charge for every copy, regardless of destination, would there be a profit. **Mr. Westlake** said that would be hard to say.

SEN. BARTLETT asked him to base his answer on the facilities with which he was familiar. **Mr. Westlake** said they tried to set it up on a "break-even" cost, explaining they based their budget on how many pages might be copied, and how many staff members would be needed to make those copies. That was the basis for many of the study costs.

SEN. BARTLETT said since there was not a charge for all copies, was the "break-even" based on the percentage on which the charge was made, or was it for all copies made. **Mr. Westlake** said the amount charged did not cover the total costs for all patients; in fact, it covered only the portion for those copies which were charged to be sent out. The rest were budgeted in as a service.

SEN. AL BISHOP referred to the charges listed in the bill, and wondered if all agencies would immediately charge 50 cents per page and the $15.00 administrative fee. **David Westlake** said he had already talked to some facilities, which said if the bill passed, they would maintain what they were currently charging, even if it was less than in the bill.

SEN. BISHOP asked how the fees should be set. **Alan Blakley** said the fee should be based on the patient having a right to one free copy for any purpose, and the recipient of the fees. If the fees went to the hospital, that was different from their going to the for-profit corporations, so they could make a profit from selling the records. He said he would look at the studies offered by **Mr. Westlake**, and check with all involved parties in order to determine what the maximum was, and he did not think it was 50 cents per page, plus $15.00. He thought it reasonable for the charge to be one or the other.

{Tape : 2; Side : A; Approx. Time Counter : 0}

A photocopy machine did not cost 50 cents per page.

SEN. SUE BARTLETT asked if it was the intent to charge the $15.00 fee for each request for recorded health care information. For example, if she asked for information regarding her appendectomy this week, and paid $15.00 plus copying charges, would she have to pay the $15.00 again if two weeks later, she needed records for her cryosurgery. **SEN. REINY JABS** said he thought the $15.00 would be for each request. He said one of the opponents said one copy should be free; however, 95% of the people did not want the copy. This would result in those who really wanted to copy paying a higher price.

SEN. CHRISTIAENS commented future rulemaking would have problems if the language was not clear.

SEN. BARTLETT asked for whom **SEN. JABS** was carrying the bill, and was told it was the Hospital Association. **Steve Browning** said he assumed the $15.00 fee would be charged for each request.

{Tape : 2; Side : A; Approx. Time Counter : 4.5}

Closing by Sponsor:

SEN. REINY JABS reiterated the charges listed in the bill were maximum only, i.e. the facilities had the flexibility to charge less, if they so desired. The set fees would stop the outrageous charges, and it was complicated to find actual costs. He said most hospitals in Montana did not have the for-profit companies

operating their copying service; in fact, when a request came in, usually the records person (hospital employee) would have to get up from his or her desk and make the copy. The records were not sold, but a fee was charged for the work involved. He also recounted when compared to other states, the $15.00 maximum fee was reasonable, because it would be more simple to apply and would ward off future lawsuits.

HEARING ON SB 433

Sponsor: **SEN. DOROTHY ECK, SD 15, Bozeman**

Proponents: **None**

Opponents: **Steve Pilcher, Montana Association of Realtors**
Andy Skinner, Private Citizen
Jan Sensibaugh, Department of Environmental Quality
Stephanie Nelson, Health Officer, Gallatin County
Peter Nielson, Missoula Health Department
Joan Miles, Lewis & Clark City/County Health

Opening Statement by Sponsor:

SEN. DOROTHY ECK, SD 15, Bozeman, said the reason for the bill was a pre-legislative meeting with county officials, which reaffirmed the difficulties the county health departments had with the Department of Environmental Quality (DEQ). She said she had dealt with such issues since her early days in the Senate, and it appeared the problems were still continuing. The Department refused to look at the cumulative impacts, which were important if there were many subdivisions, and there was concern about the water quality of the ground water. There were also issues of communication, because local sanitarians wanted to know when the developer of a major subdivision was going out to inspect the site and do the necessary excavations.

She stated when the bill draft finally came, other things were included; however, when it was finally introduced, there were real problems. After the bill was introduced, which greatly incensed the health departments, the state finally petitioned DEQ to do rules so it would be clear what their responsibilities were in dealing with public health. The petition said since 1977, the Montana Sanitarians and Subdivisions Act required the Departments to adopt administrative rules requiring evidence that septic systems would comply with state and local laws and regulations, which were in effect at the time the preliminary or final plans were submitted. She said that had never been done. The petition also went on to say since 1994, they demanded the Department do

SENATE HEALTH & WELFARE
EXHIBIT NO. 1
DATE 2/17/99
BILL NO. SB 399

NORTHERN MONTANA Hospital P.O. Box 1231 30 Thirteenth St. Havre MT 59501 (406) 265-2211

February 17, 1999

Montana Senator Al Bishop
Chairman Senate Public Health, Welfare and Safety Committee

RE: Senate Bill 399

Dear Senator Bishop,

I am the Business Operations Director at Northern Montana Hospital in Havre, Montana in which I oversee the Health Information Management Department. The Health Information Management Department is responsible for release of information. I am also the President of the Montana Health Information Management Association (MHIMA).

In 1994 MHIMA conducted a survey to arrive at a reasonable charge for copying health care information. From the survey it was suggested that $15.00 plus $.50 per page was a reasonable charge. We adopted that charge at Northern Montana Hospital and have been charging $15.00 plus $.50 per page ever since.

I do support Senate Bill 399 because I feel there does need to be specific guidelines set forth. In helping the committee understand the rationale of justification for these charges, I have produced the attached document.

Thank you.

Sincerely,

Julie Mariani, RRA

Julie Mariani, RRA
Business Operations Director, Northern Montana Hospital
President, Montana Health Information Management Association.

DETERMINATION OF ACTUAL COPYING COSTS AT NORTHERN MONTANA HOSPITAL

Montana law provides that a health care provider may charge a reasonable fee, not to exceed the actual cost, for providing health care information.

We have determined that a charge of $15.00 plus 50 cents a copy is a reasonable fee, based on calculating actual costs of the following:

1) Space, supplies and equipment
   a) Work space cost
   b) Supply cost
   c) Equipment service cost
   d) Accumulated depreciation expense for equipment
   e) Postage
2) Labor costs
   a) Verification of mail request
   b) Record retrieval and screening
   c) Copy cost for Medical Record Department staff
   d) Telephone requests
   e) Filing of Authorizations
   f) Patient walk in requests
   g) Refiling of records
   h) Faxing of medical information
   i) After hours release of information
3) Supervisory labor costs
   a) Release of information coverage
   b) Subpoena/court appearance/customer complaints
4) Attorney fees
   a) Legal advice

While it appears simple to produce a few pieces of paper and copy them, the actual process is quite complex. Extra care and steps are needed since we are dealing with actual medical records and patient confidentiality is of foremost importance.

1) A request is received and logged into our indexing system.
2) The medical record number is located and the patient's identification confirmed.
3) The medical record chart is then located and retrieved..either on premises or in off-site storage location. It can be either hard copy (paper) format or on microfilm.
4) The chart is disassembled, appropriate information selected and reviewed for sensitive information.
5) Authorization is confirmed for the release of specific information.
6) The necessary copies are produced.
7) The copies are stamped and labeled as copies of the facility.
8) The chart is reassembled.
9) Quality assurance is performed to be certain that the request was properly filled.
10) The request is logged out according to procedure.
11) Invoicing occurs detailing the charges for the above steps.
12) The chart is re-filed.
13) The completed request is mailed.

SENATE HEALTH & WELFARE
EXHIBIT NO. 2
DATE 2/17/99
BILL NO. SB 399

From: Julie Gemar <jgemar@communitymed.org>
To: Jim Ahrens <jim@mtha.org>
Date: Wed, Feb 17, 1999 11:48 AM
Subject: SB 399 Copying Cost Legislation

A $15.00 administrative fee for searching and handling recorded health care information is reasonable for the following reasons:

1. The requested information is often located in many areas of the health care facility. i.e.
   Different departments
   Different buildings
   Special storage areas
   Microfilm
   Microfiche

2. It is often time comsuming to abstract the record to provide the specific information being requested.

3. If unusual circumstances exist - i.e. psychological, drug/alcohol abuse, HIV records are being requested, extra time is required to contact appropriate professionals informing them of the request & documenting their authorization.

4. All information is to be logged according to Uniform Information Healthcare Information Act so that the patient can come in to a facility a get a list of places their records has been sent.

5. If "all" is specified in the request & the record is "large", the requestor is notified to inquire if, indeed, all records are to be copied in order to keep the cost of copying down.

Our facility receives 400 - 600 requests per month and about 65% of those are releasing to another health care provider which we do not charge.

Please let me know if I need to clarify anything for you.... Hope this helps.....let me know how things turn out. THANKS.

CC: Julie Gemar <jgemar@communitymed.org>

SENATE HEALTH & WELFARE
EXHIBIT NO. 3
DATE 2/17/99
BILL NO. SB 399

ILLUSTRATIVE DOCUMENTS SUPPORTING TESTIMONY

OF

ALAN F. BLAKLEY

TO

SENATE PUBLIC HEALTH, WELFARE & SAFETY

COMMITTEE HEARING ON SB399

WEDNESDAY, FEBRUARY 17, 1999

Exhibit # 3
From Sen. Health & Welfare
The full exhibit is available from:
Montana Historical Society Archives
225 North Roberts
PO Box 201201
Helena, MT 59602-1201
Phone: (406) 444-4775
24 pages

Alan F. Blakley
5604 Gharrett Avenue
Missoula, Montana 59803
406-543-0909
406-543-0990 Fax

SENATE HEALTH & WELFARE
EXHIBIT NO. 4
DATE 2/17/99
SB 399

Summary of Comments of Alan F. Blakley, Missoula, Senate Bill 399
February 17, 1999
Senate Public Health, Welfare, and Safety Committee Hearing

Senate Bill 399, while intended to remove some ambiguity in the Montana Uniform Healthcare Information Act, is hastily and ill conceived and does not address the problems in a comprehensive or even a reasonable manner. The statute as it exists requires healthcare providers to provide medical records to patients at a reasonable cost not to exceed the actual cost. Healthcare providers and for-profit companies selling records to Montana patients charge a variety of prices for a variety of items including exorbitant postage costs in addition to "retrieval" fees or service changes. Those bear no relationship either to actual cost or to a reasonable cost.

The problem which this legislature should address is that patients who have already paid for medical services are now required to pay to acquire copies of their medical records. This is not reasonable. This legislature should require healthcare providers to provide the first copy of all routine, paper medical reports which a patient requests to the patient at no charge. This is similar to the requirement that an attorney provide the client's file to the client at no charge.

Illustrative documents submitted with these comments show a variety of abuses. For instance, Med-Cor, a for-profit company, claims to provide on-site services at St. Patrick's Hospital in Missoula, yet carries the records to Oak Harbor, Washington for photocopying, charges not only $1.34 per page, but a $5.00 retrieval fee and over twice any reasonable calculation of postage. The current amendment does not address retrieval fees or postage or whether for-profit companies will be authorized to remove records from the state and sell them to patients for a profit. The current law does <u>not</u> allow non-healthcare providers like Med-Cor or Fleet Mobile Copying Systems, Inc. to sell records but they do anyway.

The information from the Smart Corporation deposition shows that even when all of the overhead items are added, the actual cost of producing one page of a patient's record, including such items as retrieval, supervisory time, photocopying, disassembling and reassembling files is only 15 cents per copy. Yet, because the hospitals and other healthcare providers have agreed to provide records to one another at no charge, patients, some of whom clearly cannot afford to pay for medical services and then to pay, again, for copies of their medical records so they can be reimbursed for the medical services, are burdened with these preposterous costs. If an attorney tried to charge $15.00 plus 50 cents per page to provide a copy of a client's file to the client, the walls of the Capitol would tremble with the hue and cry of the populace.

This Committee should launch a *thorough* study of costs and of practices around the state prior to enacting any legislation which specifies the fee a healthcare provider can charge for services. What are you doing to your constituents, the consumers, and why? Healthcare costs are spiraling out of control. Why allow out of state, for-profit companies to make a profit selling patient records to patients who have already purchased the medical services that generated those records?

MINUTES

MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY

Call to Order: By **VICE CHAIRMAN FRED THOMAS**, February 19, 1999, at 3:15 P.M., in Room 410 Capitol.

ROLL CALL

Members Present:

Sen. Al Bishop, Chairman (R)
Sen. Fred Thomas, Vice Chairman (R)
Sen. Sue Bartlett (D)
Sen. Dale Berry (R)
Sen. John C. Bohlinger (R)
Sen. Chris Christiaens (D)
Sen. Bob DePratu (R)
Sen. Dorothy Eck (D)
Sen. Eve Franklin (D)
Sen. Duane Grimes (R)
Sen. Don Hargrove (R)

Members Excused: None.

Members Absent: None.

Staff Present: Susan Fox, Legislative Branch
Martha McGee, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted:	SB 489, SB 467, SB 511, SB 478, SB 491, SB 491,
Executive Action:	SB 478, SB 491, SB 489, SB 511, SB 399

The meeting was called to order by **VICE CHAIRMAN FRED THOMAS** at **CHAIRMAN AL BISHOP'S** request. **VICE CHAIRMAN SEN. THOMAS** explained that there were 6 bills to hear this evening, and there are Senators on this committee and others who have meetings after that. Time is more precious than anything right now. We are

SEN. GRIMES said all he can say is that he assumes that what they are doing is getting a glimpse of what everybody tells them the 1980's were like, politics of surplus versus the politics of deficit.

VICE CHAIRMAN THOMAS said he would take it up with the Senate Leadership as to whether they'd like this Tobacco Summit, that was mentioned as a good idea, obviously that needs to be done. He will take that from here, whether it is a Subcommittee, or this Committee, or whatever, he will find out.

VICE CHAIRMAN THOMAS said, seeing no further discussion, reiterated, the motion before them is **DO PASS ON SB 489**.

Vote: The motion carried with **SEN. HARGROVE, SEN. GRIMES, and SEN. BERRY voting "no" - 8-3.**

EXECUTIVE ACTION ON SB 511

Motion/Vote: SEN. DEPRATU moved that **SB 511 BE TABLED. Motion carried 10-1 with Bartlett voting no.**

EXECUTIVE ACTION ON SB 399

Motion: SEN. HARGROVE moved that **SB 399 DO PASS.**

Discussion:

VICE CHAIRMAN THOMAS asked **Mr. Steve Browning** if he would give them the proposed amendment. **EXHIBIT(15)**

Steve Browning, Representing the Montana Hospital Association, said he is distributing an amendment that **SEN. JABS** has approved. He said **SEN. JABS** believes this bill will likely pass the Committee without an amendment, but he listened very carefully to the testimony, and thought some of the questions should be addressed with amendments. There are five amendments.

He explained the amendments. It became clear the more they studied the bill, even though this is existing law, that what they were doing, it was going to require you to pay a fee, even before you could examine your medical record. The thought was to make that examination "free" if you came out and wanted to

examine your record, the provider would have to bear the expense of getting the records together and bring them to you. But there would not be a charge for that examination.

VICE CHAIRMAN THOMAS asked **Steve Browning** to help the Committee find the language in the bill.

Steve Browning, clarified, it should be Line 26, "examination, or". He said what they are trying to do is make this available at "no charge." He referred to the second amendment Page 4, Line 26 following available, insert "at no charge". He asked for the Committee's indulgence, **Susan Fox** and himself tried to do this hastily and he apologized for any they had missed.

On Page 5, Line 10, where it says, "the health care provider", it is for each request made under this Subsection. This was **SEN. BARTLETT'S** question, they are clarifying it. It's for each request, the fee applies. So it is inserting, "for each request in the Subsection, "the" and it goes on from there, and on Page 5, Line 12, is the point they made before. Where you are not required to pay the fee, before you examine the record. You are only required to pay the fee after you examine the records. If you decide after reviewing, then you decide if you want to have the copying done, it's a pre-examination. Those are the three amendments.

VICE CHAIRMAN THOMAS questioned **Steve Browning**, it would be a free examination, but not a free copying.

Steve Browning answered, that is correct. Under the proposed amendment it would, free to examine the record. If you decided you wanted a copy, then the fee would apply, and the charge would be .50 cents per page. The only additional points that **SEN. JABS** wanted to emphasis, is if you give them free, all you are going to do is further cost shifting to the private pay payers. The expense is going to be borne, who is it going to be borne by, well Medicare and Medicaid won't pay for it. So it will be paid again by private insurers.

SEN. CHRISTIAENS said because he is not an attorney, he doesn't have a clue. He asked **Steve Browning**, how many times would an entire record be requested?

Steve Browning answered, in his case, he has never requested his medical record in his life. Some people request it quite often. Also in connection with a particular series of a medical procedures they might continue to request again and again for the record. Of course they can be voluminous. **Jack Casey** was telling them that just on one of the patients at Shodair

Hospital, the records are 8,000 pages long. They can be quite extraordinary. These costs are real costs. The care that is required of these medical records is quite intense, which is what we want for our own privacy and also for the accuracy of the records.

SEN. BARTLETT asked **Steve Browning**, but how often are you going to hear of an 8,000 record file, isn't that the exception?

Steve Browning replied, he thought it's not common, but it's not uncommon. He said **SEN. JABS** was talking to his wife last night, who handles medical records for Hardin. It is a pretty small facility and she says, they get somewhere between 25 - 30 requests a month. That is on the average of one a day, or more. It doesn't sound like much for one day, but you go try to find a medical record, and you've got your hands full. You have to get all the records and also check them out before you show them to the individual, to be sure you are not disclosing anything you should not disclose.

SEN. BARTLETT asked if that request is from individuals as opposed to requests because a patient is going to seeing a specialist, or going to a nursing home for skilled nursing care as an interim step to getting back home?

Steve Browning answered it was his impression, he was talking to her, he is pretty sure, she was talking about requests, like patients coming in for the record. He said it is pretty routine for insurance companies. Insurance companies know exactly what they have and the providers know exactly what they are after. It is the patients that are not really sure what they are after.

SEN. ECK asked how about malpractice attorneys?

Steve Browning answered, regarding the malpractice attorney. He assumed that fits in with the 25 - 30, but he is not entirely sure of that. She was telling him, that it was pretty common for the attorneys to come in and do the examination with her. They sit down with the client sometimes, and go through the examination to make sure they review the record together.

VICE CHAIRMAN THOMAS asked **Susan Fox**, if they were square on the amendment in the document before them says, they do not need this first line in the examination.

Susan Fox clarified, she believed that was accurate. If they wanted to clarify that the examination is without charge, she would think, Page 4, Line 26, following the word examination, you could insert, "without charge", to make it clear that the

examination is without charge, not the copying. Then **Mr. Browning's** amendment is on Page 5, Line 10, and Line 12, permit examination, or copying. If they strike that, and insert "either copy or provide copies". That make its clear on the examination, you don't have to pay anything to examine, but as soon as you request copies, you must pay that charge prior to receiving.

VICE CHAIRMAN THOMAS asked if the Committee members were clear on the amendments.

Motion/Vote: **SEN. CHRISTIAENS** moved that **SB 399 BE AMENDED. Motion carried unanimously -11-0.**

Motion: **SEN. CHRISTIAENS** moved that **SB 399 DO PASS AS AMENDED.**

Discussion:

SEN. BARTLETT said there was interest in their last meeting about the possibility of simply specifying that each patient is eligible for one free copy of their record. She is interested in knowing if there is any interest in that.

SEN. CHRISTIAENS said he thought that was nice. He doubts that not very many patients would do it. He would like to hear from maybe **Steve Browning** or **Jim Ahrens** if that would be an expensive procedure for the hospital. How often would you think that someone would do it?

Jim Ahrens, answered, you'd recall that the testimony on this issue was a bit garbled. First of all **SEN. JABS** made it very clear throughout that what they are talking about here is a maximum fee. Montana is the only state in the union that has actual costs, which is the source of the ligation, they are just trying to get onto a fee. The impression was given by some of the witnesses that you do get these records free if you ask for them. It's his belief based on a few conversations, that he thinks you do get them free now, in many cases. When the patient comes in and talks to them, and it is really clear to them that this is a genuine effort to get their records. The reason he believes that is because when he was talking to **SEN. JABS** wife last night, that is exactly what she said. That if the patient comes in, she gives it to them for free. He is not saying that is the written policy, but when he watched the heads of the three medical records people, when the question was asked, they all nodded, when they talked about free, but when you tried to really pin them down, they wouldn't say, oh no, we do that. He doesn't know if that helps them.

SEN. DEPRATU said, he has really got mixed feelings on this. He thinks not giving a customer, and he would consider a patient a customer in a situation, a client in the business world, would be like somebody in the insurance business or the auto business or banking business, saying if you want a copy of your contract, why we are going to charge you extra to get copies of that, just because that is part of your records. He thinks these are part of the records, and yet when **Steve Browning** talks about an extreme case can have up to 8,000 pages. He wants to meet a middle ground here, along the lines that, if they use the words, "the hospital may charge" a patient for the first set of records, if the number of pages exceed 100 pages. Something like that because it gets into real cost, but maybe more than something that to the first 100 pages would be free if requested by the patient, after that some kind of a minimal charge.

SEN. FRANKLIN, said that was kind of interesting. One of the witnesses testifying said the .50 cent fee per page was okay, and the administrative fee was okay, but the two together seemed a bit much. An example could be, a .50 cents a page up to a certain amount, and then you pay the administrative fee, a flat administrative fee after that point. There is different reasons people are going to request records. An instance might be a child that was in Shodair, and has an 8,000 page record, and is going to residential treatment in Arizona. That is a very specific reason. Then there is the folks who get their records for litigation, trial attorneys for purposes of litigation which might be built in to some degree into that whole other picture. This also includes average folks. She would like to find some middle ground.

SEN. HARGROVE said he agrees exactly with what **SEN. FRANKLIN** said, most of it. What they may have here up to a certain level, and that seems to have fixed the problem. It seems like they are trying to get into the area of trying to legislate management style. If one hospital wants to do something one way, and one wants to do it another. Nothing is free. You know somebody is paying for these copies, whether it's a policy of one hospital to charge a little bit more, and then give them free or charge them down. He didn't know if the testimony indicated there was a particular problem. Micro-management seems to be where they are headed if they do that. Even middle ground could be done, but if it isn't broke, don't fix it. He would say, pass the bill the way it is.

SEN. BERRY said the only way a free copy is practical, and not put a big burden on the hospital, is to give everybody a free copy at the time they exit the hospital. Everything is there then. Then 80% of the copies are just going to disappear , like

people who don't want it. After the fact is the burden of the administration. You go get the box or the file how ever long ago it is, and you bring it out. If there is a concern, and he heard that too. They might consider the administrative fee of $15.00 and in that fee they got up to so many copies, maybe 6 or 8 copies or whatever. He thinks the free copies is a big burden.

SEN. ECK said she likes it better without any amendments. She was thinking of the extra costs if you have to go back into records that are 30 or 40 years old, that someone might want. This is something that hospitals have to decide for themselves. They have put maximums on. If they want to charge less, they can.

SEN. DEPRATU said he was going to say the more he thinks about this the more it really bothers him to have this in statute, and for them to even be dealing with it. It is the type of situation where he thinks they are trying to micro-manage somebody else's business. He has a problem with doing that.

SEN. BARTLETT stated that she understands that this was brought forward by healthcare providers, the hospital in particular. She understands their concerns. She thinks it is reasonable to put maximums into the law. What they are really talking about in terms of one free copy, it's my body. Whatever was done in the precinct of the hospital walls, was done to my body, and she thinks she has the right to the information about that without having to pay for every single copy. That is where she sees one free copy in, not necessarily for micro-managing, or from a business perspective in terms of looking at from a hospital perspective, but looking at from the patient's perspective. Why shouldn't she be able to have one copy of her records without paying for it, is her point. So they can have the call for the question, and move on.

VICE CHAIRMAN THOMAS said he thought that was a good question. He had a question for **Steve Browning.** Could he verify that? He thought **SEN. BARTLETT** had an excellent point. Do they get a free copy in essence when they check in, like a blood draw, a blood test on a person? They give you a copy of that report, is that the case, or could he expand this? Is it the initial report that they get a free copy of and is it when the patient goes and asks for additional copies that the bill applies, what is the scenario here?

Jim Ahrens, answered he would try to clarify. When you go and get a test, you get a copy of the report, or your physician will and that is just provided routine. If you're a man and you get a P.A. test, that will come back to your physician normally, there

is no charge for that. The complicating factor, when you get in the hospital, you get all types of records. And even when you are discharged, you couldn't get a copy of your total record if you wanted at that point in time anyway because it's not there. It's a complicated issue.

{Tape : 3; Side : B; Approx. Time Counter : 1 - 28}

SEN. CHRISTIAENS said as he understands this bill, as they have already amended it, the patient has the right to examine at no cost. He thinks this goes along way with this process because he is not really sure that you have that right now in every hospital. Maybe you do, but he doesn't know that. The complicating issue is the right to that free copy. He is kind of torn on that.

SEN. DEPRATU said he kind of agrees with **SEN. BARTLETT.** The free copy, he thinks you are entitled to a free copy of things that relate to you. He thinks you have a right to a copy, whether you want it as a free look, or a free hard copy. Either way, its important. Some people may not be comfortable sitting in a cubicle trying to digest something they want to take home and be able to peruse it.

SEN. GRIMES said since there is not a motion on this issue, and since they have almost discussed it out, he would like to go ahead and vote on the bill. Frankly, when you are talking about records management and at the level these people need to maintain their records. For him to go back to St. Peter's Hospital, say he'd like to have his records for the last 2 years, that is a significant cost for them to go dig all that out and bring it up. He thinks they are micro-managing by getting into all of that, they should just go ahead and vote on the bill.

SEN. BERRY said he thinks that if you tag in free and this is a significant administrative cost for the whole, and put in here that it's a free copy for everybody, then he thinks it is going to prorate into your bill for every single person, every copy, .50 cents, where only those 20% are going to ask for them. Everybody is going to pay for that free copy. He thinks they should leave it out.

SEN. CHRISTIAENS said there is a part that says "yes" he thinks he has a right to a free copy if it is your history. But if you were a psychiatric patient, and you got that copy, there could be things in that record that could throw you over the edge possibly. Depending on how stable you are at the time you get it, and he may be wrong, but he thinks at times your doctor might not make some of the comments on the chart, if he or she knew.

SEN. FRANKLIN said she thought that was another issue. Anybody has the right to access their chart, it doesn't matter. So yes, everybody is under the law, everybody including psychiatric patients are permitted. You might not think gee, whether its great or not, but that's not the point, everybody is entitled to a copy of their charts.

SEN. BARTLETT said she would move an amendment. It is on Page 5, Line 13, adding basically a Subsection B, that says, "a healthcare provider must provide the first copy requested by a patient of a patient's health care information without charge to the patient." She said she'd make that motion so they hold their feet to the fire and make a clear decision on this, one way or the other. No conflicts of interest here.

Motion/Vote: **SEN. BARTLETT** moved that **SB 399 BE AMENDED. On voice vote, motion carried 8-3 with Sen. Berry, Sen. Grimes, and Sen. Hargrove voting "no" by raising their hands.**

SEN. FRANKLIN said she'd like to make one comment before she votes.

VICE CHAIRMAN THOMAS said they were not voting now.

Motion: **SEN. CHRISTIAENS** moved that **SB 399 DO PASS AS AMENDED.**

Discussion:

SEN. FRANKLIN said from her former colleges, in 1991, **Republican Senator Thayer** from Great Falls, served on this Committee with her and she had the mandated mammography bill. She remembers they really worked on that bill and they said be careful where you set the limit for how much you are going to reimburse. His concern was reimburse, but then you set the maximum. Are they setting in a sort of a defacto or policy that now that everybody is going to charge $15.00.

SEN. BOHLINGER said he just learned that **SEN. JABS** feels strongly that if this bills is amended, he would like to see tabled, rather than brought forward on the free copy.

SEN. HARGROVE said he doesn't think he could vote for the bill after the amendment that they just put on. They have just raised the price on people, and just filled a lot of garbage cans with things that people don't need. We are indeed micro managing and

he can go with the bill without the amendment, but with it he can't vote for it.

Substitute Motion: **SEN. BOHLINGER** made a substitute motion that **SB 399 BE TABLED.**

VICE CHAIRMAN THOMAS explained that **SEN. BOHLINGER'S** motion is non-debatable. They can either pass this motion, or an option would be to reconsider the amendment. There is no further discussion.

Substitute Motion/Vote: **SEN. HARGROVE** made a substitute motion **TO RECONSIDER THE AMENDMENT TO SB 399. On voice vote, the substitute motion carried 8-3**, with **Sen. Bartlett, Sen. Christiaens, and Sen. Franklin voting "no."**

VICE CHAIRMAN THOMAS said they were back on **SEN. BARTLETT'S** amendment to ask for one free copy of medical records. He asked if there was discussion on the one free copy amendment, motion of **Sen. Bartlett's.**

SEN. BARTLETT asked for clarification of the motion, to strip the amendment, or what?

VICE CHAIRMAN THOMAS said they were back on the motion now, because they reconsidered their action, so they are back on her motion to amend **SB 399**, adding the "one free copy" amendment. He explained an "aye" vote is in favor of amending the bill, and a "no" vote is in favor of not amending.

VICE CHAIRMAN THOMAS asked all those members in favor of **SEN. BARTLETT'S AMENDMENT TO AMEND SB 399, raise their right hand, he counted 4 "yes" votes. He asked all those opposed to raise their right hand, 7 "no" votes. The motion failed -4-7-.**

VICE CHAIRMAN THOMAS said they were back on the motion of **SEN. CHRISTIAENS** that **SB 399 DO PASS AS AMENDED.**

Vote: **On Voice Vote, with 4 "no" votes, the motion carried -7-4.**

{Tape : 4; Side : A; Approx. Time Counter : 0 - 15}

ADJOURNMENT

Adjournment: 6:30 P.M.

Fred Thomas
SEN. FRED THOMAS, Vice Chairman

Martha McGee
MARTHA MCGEE, Secretary

AB/M

SENATE HEALTH & WELFARE
EXHIBIT NO. 15
DATE February 19, 1999
BILL NO. SB 399

Amendments To SB 399 (introduced copy)
Proposed by Senator Jabs

Page 4, line 24: Strike: "examination or"

Page 4, line 26: Following: "available" Insert: "at no charge"

Page 5, line 10: Strike: "The" Insert: For each request made under this subsection, the"

Page 5, line 12: Strike: "permit examination or copying" Insert: "copy"

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN BRUCE SIMON**, on March 15, 1999 at 8:00 A.M., in Room 104 Capitol.

ROLL CALL

Members Present:

Rep. Bruce Simon, Chairman (R)
Rep. Bob Pavlovich, Vice Chairman (D)
Rep. Paul Sliter, Vice Chairman (R)
Rep. Joe Barnett (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Roy Brown (R)
Rep. David Ewer (D)
Rep. Carol C. Juneau (D)
Rep. Billie Krenzler (D)
Rep. Bob Lawson (R)
Rep. Gay Ann Masolo (R)
Rep. Gary Matthews (D)
Rep. Joe McKenney (R)
Rep. Carolyn Squires (D)
Rep. Jay Stovall (R)
Rep. Cliff Trexler (R)
Rep. Carley Tuss (D)

Members Excused: None.

Members Absent: Rep. Rod Bitney (R)

Staff Present: Stephen Maly, Legislative Branch
Pati O'Reilly, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 130, SB 132, SB 390, SB 399, 3/3/1999
Executive Action: SB 130, SB 117

Informational Testimony: Kevin Braun, Dept. of Labor offers amendments.
{Tape : 1; Side : B; Approx. Time Counter : 309 - 337}

Questions from Committee Members and Responses:
Reps. Ewer and Sliter questions Steve Browning. Rep. Squires questions George Wood. EXHIBIT(3)
{Tape : 1; Side : B; Approx. Time Counter : 337 - 475}

Rep. Sliter questions Senator Bishop.
{Tape : 1; Side : B; Approx. Time Counter : 475 - 485}

Closing by Sponsor: Senator Bishop closed SB 390.
{Tape : 1; Side : B; Approx. Time Counter : 485 - 500}

EXECUTIVE ACTION ON SB 117

Motion/Vote: **REP. SLITER** moved that **SB 117 BE CONCURRED IN.** Motion carried unanimously. EXHIBIT(4)

{Tape : 2; Side : A; Approx. Time Counter : 0 - 51}

HEARING ON SB 399

Opening Statement by Sponsor: Senator Jabs, SD 3, introduced SB 399.
{Tape : 2; Side : A; Approx. Time Counter : 51 - 92}

Proponents' Testimony: Steve Browning, Montana Hospital Assn. and Health Care Providers.
{Tape : 2; Side : A; Approx. Time Counter : 92 - 109}

Julie Marianne, Havre Hospital Record Information Director.EXHIBIT(5)
{Tape : 2; Side : A; Approx. Time Counter : 109 - 173}

Julie Gaymor, Director, Medical Records at Missoula Medical Center. EXHIBIT(6)
{Tape : 2; Side : A; Approx. Time Counter : 173 - 230}

Judy Jackson, Director of Medical Records, Shodair Hospital, Helena, MT. EXHIBIT(7)
{Tape : 2; Side : A; Approx. Time Counter : 230 - 289}

Jerry Lindorf, Montana Medical Assn.
{Tape : 2; Side : A; Approx. Time Counter : 289 - 296}

Opponents' Testimony: No opponents

Informational Testimony: Al Smith, Montana Trial Lawyers.
{Tape : 2; Side : A; Approx. Time Counter : 296 - 325}

Questions from Committee Members and Responses:
Rep. Bookout questions J. Gaymor.
Rep. Krenzler questions Julie Marianne.
Rep. Bitney questions Judy Jackson.
{Tape : 2; Side : A; Approx. Time Counter : 325 - 500}

Rep. Juneau questions Julie Marianne. Rep. Squires questions Steve Browning and Gaymor. Rep. Bookout questions Gaymor and Al Smith. Reps. Ewer, Sliter and Simons question Steve Browning.
{Tape : 2; Side : B; Approx. Time Counter : 0 - 111}

Closing by Sponsor: Senator Jabs closed SB 399. Representative Matthews to carry.
{Tape : 2; Side : B; Approx. Time Counter : 111 - 140}

EXHIBIT 7.5
DATE 3/15/99
SB 399

DETERMINATION OF ACTUAL COPYING COSTS AT NORTHERN MONTANA HOSPITAL

Montana law provides that a health care provider may charge a reasonable fee, not to exceed the actual cost, for providing health care information.

We have determined that a charge of $15.00 plus 50 cents a copy is a reasonable fee, based on calculating actual costs of the following:

1) Space, supplies and equipment
   a) Work space cost
   b) Supply cost
   c) Equipment service cost
   d) Accumulated depreciation expense for equipment
   e) Postage
2) Labor costs
   a) Verification of mail request
   b) Record retrieval and screening
   c) Copy cost for Medical Record Department staff
   d) Telephone requests
   e) Filing of Authorizations
   f) Patient walk in requests
   g) Refiling of records
   h) Faxing of medical information
   i) After hours release of information
3) Supervisory labor costs
   a) Release of information coverage
   b) Subpoena/court appearance/customer complaints
4) Attorney fees
   a) Legal advice

While it appears simple to produce a few pieces of paper and copy them, the actual process is quite complex. Extra care and steps are needed since we are dealing with actual medical records and patient confidentiality is of foremost importance.

1) A request is received and logged into our indexing system.
2) The medical record number is located and the patient's identification confirmed.
3) The medical record chart is then located and retrieved..either on premises or in off-site storage location. It can be either hard copy (paper) format or on microfilm.
4) The chart is disassembled, appropriate information selected and reviewed for sensitive information.
5) Authorization is confirmed for the release of specific information.
6) The necessary copies are produced.
7) The copies are stamped and labeled as copies of the facility.
8) The chart is reassembled.
9) Quality assurance is performed to be certain that the request was properly filled.
10) The request is logged out according to procedure.
11) Invoicing occurs detailing the charges for the above steps.
12) The chart is re-filed.
13) The completed request is mailed.

EXHIBIT 6
DATE 3/15/99
SB 399

DAILY COPY ROUTINE

1. Mail arrives and is opened.

2. Stamp date received and initial.

3. Verify that a signed authorization is present. Verify the date.
*Requests without proper authorization are to be sent back to requestor. (Please see section Authorizations)

4. Read request thoroughly. Note information requested. Verify patient name and dates of admission carefully.

5. Look up patient in the computer, retrieve medical record number, and verify dates requested.

6. Pull record, verifying that the name on the record matches name on request.

7. Processing requests:
   a. Verify patient name, medical record number, dates of admission, information requested, and address of requestor.
   b. Copy all requested information and stamp in red ink every copied page to be mailed with the medical records re-disclosure stamp. (see example)
   c. Stamp back of original request with log out stamp, noting information copied, date, and number of pages copied. Place in the insurance envelope.

8. Return records to:
   a. File shelf if completed.
   b. Back shelf in date order if inpatient lack slip is attached.
   c. Tray on back shelf if outpatient lack slip is attached.
   d. Rehab Coordinator if it is an active rehab chart.

9. Log out information into computer system. Please see the following procedure:

PROCEDURE: Log Out/In Procedure

   a. Enter patient's medical record number. Press Enter.
   b. At verification screen, if you have the correct patient, press Enter again.
   c. Press 07, Review/Revise Requestors.
   d. Press 01, add requestor to log out information.
   e. All information sent must be recorded in the computer insurance log. The following should be recorded in the log.
      *Date received.
      *Requestor name.
      *Requestor code (hit Shift F12 to view options).
      *Address.
      *City.
      *State.
      *Zip code.
      *Date sent.
      *Billable.
      *Number of pages.
      *Information requested.

AUTHORIZATIONS

When checking an authorization to release medical records, check for:

1. Clear and totally legibility of entire document.
2. Patient signature and date.
3. Current and valid authorization:
    a. Including the nature of the information to be disclosed.
    b. The person to whom the information is to be disclosed.
    c. If an authorization does not contain an expiration date, it expires six months after it was signed.
    d. An authorization remains valid for 30 months unless an earlier date is specified or it is revoked.
    e. If psychological, drug/alcohol abuse, or HIV related information is being requested, the authorization must specifically state this. These requests as well as any other unusual circumstance requests; i.e. child or elder abuse, sexual abuse, etc. should be reviewed by the director of Health Information Management or her designee.
    f. An authorization may not permit the release of information relating to healthcare that the patient receives more than six months after the authorization was signed.

AUTHORIZATION REVOCATION

The patient has a right to revoke his or her authorization(s) at any time. A verbal revocation should be noted and honored, but a written statement of revocation should be obtained from the patient as soon as possible.

When a patient revokes an authorization, the procedure is:

a. Pull the patient's insurance envelope from the file.
b. In red ink, stamp all authorizations in the envelope with the AUTHORIZATION REVOKED stamp and note the date that the patient signed or gave the revocation verbally.
c. Tape a yellow AUTHORIZATION REVOKED notice to the front of the patient's insurance envelope and note that date on this as well.

RED stamp indicates original copy
Any reproduction is unauthorized
by Missoula Community
Medical Center

8-1. Records can be found in file rooms 1 and 2.

8-2. If record is not in either file room, look in

- 8-2a. Inpatient routing book.
- 8-2b. Outpatient routing book.
- 8-2c. Shelf.
- 8-2d. Endbank.
- 8-2e. Current days on shelf.
- 8-2f. If a rehab service with no discharge date, address request to Carolyn.
- 8-2g. Print lab (Please see section V entitled: Lab, Radiology and Microfilmed Records).
- 8-2h. Print microfilm.
- 8-2i. Check doctor's boxes in the doctor's lounge.

EXHIBIT 1
DATE 3/15/99
SB 399

Information Re: Senate Bill 399
Shodair Children's Hospital
Helena, MT

A. Shodair Hospital Health Care (Medical) Records

* 44 bed inpatient/residential child & adolescent psychiatric facility
* Genetics Component - Clinical and Laboratory
* Process approximately 55 written requests/month for medical record copies
* Staff time processing requests approx. 60 hrs./month
* Average record - Clinical Genetics: 2 to 3 pages
  Clinical Laboratory: 2 to 3 pages
  Acute Psychiatric: 40 to 100 pages
  Residential Psychiatric: 200 to 800+

B. Release of Information Process

* Release in accordance with Montana Uniform Health Care Information Act
  a. Issues with custodial vs. noncustodial parents (minors)
  b. Multi-agency involvement
  c. Chemical dependency records
  d. Managed Care/Payors

C. Contributing Cost Factors

* Subpoena/compulsory process requires hospital attorney review
* Clinical staff (Psychiatrist/social worker) review of records under Uniform Health Care Information Act 50-16-542 MCA pertaining to denial of access and review under 53-21-166(2) MCA pertaining to the confidentiality of mental health records.
* On site patient/parent/guardian record review

Prepared by J. Jackson, R.R.A.
Director, Health Information Management
Shodair Hospital

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN BRUCE SIMON**, on March 22, 1999 at 8:00 A.M., in Room 104 Capitol.

ROLL CALL

Members Present:

Rep. Bruce Simon, Chairman (R)
Rep. Bob Pavlovich, Vice Chairman (D)
Rep. Paul Sliter, Vice Chairman (R)
Rep. Joe Barnett (R)
Rep. Rod Bitney (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Roy Brown (R)
Rep. David Ewer (D)
Rep. Carol C. Juneau (D)
Rep. Billie Krenzler (D)
Rep. Bob Lawson (R)
Rep. Gary Matthews (D)
Rep. Joe McKenney (R)
Rep. Carolyn Squires (D)
Rep. Jay Stovall (R)
Rep. Cliff Trexler (R)
Rep. Carley Tuss (D)

Members Excused: Rep. Gay Ann Masolo (R)

Members Absent: None.

Staff Present: Stephen Maly, Legislative Branch
Pati O'Reilly, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 490, SB 13, SB 365, 3/3/1999
Executive Action: SB 13, SB 365, SB 126, SB 132, SB 331, SB 399,

There is no Executive Action included in the March 22nd minutes.

AN ACT PROVIDING A CAP ON THE AMOUNT A HEALTH CARE PROVIDER MAY CHARGE FOR COPYING HEALTH CARE INFORMATION; AND AMENDING SECTIONS 50-16-504, 50-16-526, 50-16-536, 50-16-541, AND 50-16-545, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Reasonable fees allowed. A reasonable fee for providing health care information may not exceed 50 cents for each page for a paper copy or photocopy. A reasonable fee may include an administrative fee that may not exceed $15 for searching and handling recorded health care information.

Section 2. Section 50-16-504, MCA, is amended to read:

"**50-16-504. Definitions.** As used in this part, unless the context indicates otherwise, the following definitions apply:

(1) "Audit" means an assessment, evaluation, determination, or investigation of a health care provider by a person not employed by or affiliated with the provider, to determine compliance with:

(a) statutory, regulatory, fiscal, medical, or scientific standards;

(b) a private or public program of payments to a health care provider; or

(c) requirements for licensing, accreditation, or certification.

(2) "Directory information" means information disclosing the presence and the general health condition of a patient who is an inpatient in a health care facility or who is receiving emergency health care in a health care facility.

(3) "General health condition" means the patient's health status described in terms of critical, poor, fair, good, excellent, or terms denoting similar conditions.

(4) "Health care" means any care, service, or procedure provided by a health care provider, including medical or psychological diagnosis, treatment, evaluation, advice, or other services that affect the structure or any function of the human body.

(5) "Health care facility" means a hospital, clinic, nursing home, laboratory, office, or similar place where a health care provider provides health care to patients.

(6) "Health care information" means any information, whether oral or recorded in any form or medium, that identifies or can readily be associated with the identity of a patient and relates to the patient's health care. The term includes any record of disclosures of health care information.

(7) "Health care provider" means a person who is licensed, certified, or otherwise authorized by the laws of this state to provide health care in the ordinary course of business or practice of a profession. The term does not include a person who provides health care solely through the sale or dispensing of drugs or medical devices.

(8) "Institutional review board" means a board, committee, or other group formally designated by an institution or authorized under federal or state law to review, approve the initiation of, or conduct periodic review of research programs to assure the protection of the rights and welfare of human research subjects.

(9) "Maintain", as related to health care information, means to hold, possess, preserve, retain, store, or control that information.

(10) "Patient" means an individual who receives or has received health care. The term includes a deceased individual who has received health care.

(11) "Peer review" means an evaluation of health care services by a committee of a state or local professional organization of health care providers or a committee of medical staff of a licensed health care facility. The committee must be:

(a) authorized by law to evaluate health care services; and

(b) governed by written bylaws approved by the governing board of the health care facility or an organization of health care providers.

(12) "Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or other legal or commercial entity.

(13) "Reasonable fee" means the charge, as provided for in [section 1], for duplicating, searching for, or handling recorded health care information."

Section 3. Section 50-16-526, MCA, is amended to read:

"**50-16-526. Patient authorization to health care provider for disclosure.** (1) A patient may authorize a health care provider to disclose the patient's health care information. A health care provider shall honor an authorization and, if requested, provide a copy of the recorded health care information unless the health care provider denies the patient access to health care information under 50-16-542.

(2) A health care provider may charge a reasonable fee, not to exceed ~~his actual cost for providing the health care information~~ the fee provided for in [section 1], and is not required to honor an authorization until the fee is paid.

(3) To be valid, a disclosure authorization to a health care provider must:

(a) be in writing, dated, and signed by the patient;

(b) identify the nature of the information to be disclosed; and

(c) identify the person to whom the information is to be disclosed.

(4) Except as provided by this part, the signing of an authorization by a patient is not a waiver of any rights a patient has under other statutes, the Montana Rules of Evidence, or common law."

Section 4. Section 50-16-536, MCA, is amended to read:

"**50-16-536. Method of compulsory process.** (1) Unless the court for good cause shown determines that the notification should be waived or modified, if health care information is sought under 50-16-535(1)(b), (1)(d), or (1)(e) or in a civil proceeding or investigation under 50-16-535(1)(i), the person seeking discovery or compulsory process shall mail a notice by first-class mail to the patient or the patient's attorney of record of the compulsory process or discovery request at least 10 days before presenting the certificate required under subsection (2) to the health care provider.

(2) Service of compulsory process or discovery requests upon a health care provider must be accompanied by a written certification, signed by the person seeking to obtain health care information or ~~his~~ by the person's authorized representative, identifying at least one subsection of 50-16-535 under which compulsory process or discovery is being sought. The certification must also state, in the case of information sought under 50-16-535(1)(b), (1)(d), or (1)(e) or in a civil proceeding under 50-16-535(1)(i), that the requirements of subsection (1) for notice have been met. A person may sign the certification only if the person reasonably believes that the subsection of 50-16-535 identified in the certification provides

an appropriate basis for the use of discovery or compulsory process. Unless otherwise ordered by the court, the health care provider shall maintain a copy of the process and the written certification as a permanent part of the patient's health care information.

(3) In response to service of compulsory process or discovery requests, where authorized by law, a health care provider may deny access to the requested health care information. Additionally, a health care provider may deny access to the requested health care information under 50-16-542(1). If access to requested health care information is denied by the health care provider under 50-16-542(1), the health care provider shall submit to the court by affidavit or other reasonable means an explanation of why the health care provider believes the information should be protected from disclosure.

(4) ~~Where~~ When access to health care information is denied under 50-16-542(1), the court may order disclosure of health care information, with or without restrictions as to its use, as the court considers necessary. In deciding whether to order disclosure, the court shall consider the explanation submitted by the health care provider, the reasons for denying access to health care information set forth in 50-16-542(1), and any arguments presented by interested parties.

(5) A health care provider required to disclose health care information pursuant to compulsory process may charge a reasonable fee, not to exceed the ~~health care provider's actual cost for providing the information~~ fee provided for in [section 1], and may deny examination or copying of the information until the fee is paid.

(6) Production of health care information under 50-16-535 and this section does not in itself constitute a waiver of any privilege, objection, or defense existing under other law or rule of evidence or procedure."

Section 5. Section 50-16-541, MCA, is amended to read:

"**50-16-541. Requirements and procedures for patient's examination and copying.** (1) Upon receipt of a written request from a patient to examine or copy all or part of ~~his~~ the patient's recorded health care information, a health care provider, as promptly as required under the circumstances but no later than 10 days after receiving the request, shall:

(a) make the information available to the patient for examination, without charge, during regular business hours or provide a copy, if requested, to the patient;

(b) inform the patient if the information does not exist or cannot be found;

(c) if the health care provider does not maintain a record of the information, inform the patient and provide the name and address, if known, of the health care provider who maintains the record;

(d) if the information is in use or unusual circumstances have delayed handling the request, inform the patient and specify in writing the reasons for the delay and the earliest date, not later than 21 days after receiving the request, when the information will be available for examination or copying or when the request will be otherwise disposed of; or

(e) deny the request in whole or in part under 50-16-542 and inform the patient.

(2) Upon request, the health care provider shall provide an explanation of any code or abbreviation used in the health care information. If a record of the particular health care information requested is not maintained by the health care provider in the requested form, ~~he~~ the health care provider is not required to create a new record or reformulate an existing record to make the information available in the requested form. The health care provider may charge a reasonable fee for each request, not to exceed the ~~health care provider's actual cost~~ fee provided for in [section 1], for providing the health care information and is not required to ~~permit examination or copying~~ provide copies until the fee is paid."

Section 6. Section 50-16-545, MCA, is amended to read:

"**50-16-545. Dissemination of corrected or amended information or statement of disagreement.** (1) A health care provider, upon request of a patient, shall take reasonable steps to provide copies of corrected or amended information or of a statement of disagreement to all persons designated by the patient and identified in the health care information as having examined or received copies of the information sought to be corrected or amended.

(2) A health care provider may charge the patient a reasonable fee, not exceeding the ~~provider's actual cost~~ fee provided for in [section 1], for distributing corrected or amended information or the statement of disagreement, unless the provider's error necessitated the correction or amendment."

Section 7. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 50, chapter 16, part 5, and the provisions of Title 50, chapter 16, part 5, apply to [section 1].

- END -